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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 327 and 337

RIN 3064-AE89

Limited Exception for a Capped Amount of Reciprocal Deposits from Treatment as Brokered Deposits; Technical Amendment

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule; technical amendment to preamble.

SUMMARY: The FDIC is making technical amendments to the preamble of a final rule published in the *Federal Register* on February 4, 2019. The final rule relates to a limited exception for a capped amount of reciprocal deposits from treatment as brokered deposits. As published, several industry participants raised concerns about the meaning of a sentence in the preamble of the final rule. To avoid potential confusion, the FDIC is amending the language, as explained below.

DATES: The technical amendments are effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

Technical Amendments

On December 18, 2018, the FDIC adopted a final rule relating to the treatment of reciprocal deposits. The final rule was published in the *Federal Register* on February 4, 2019 (84 FR 1346). Several industry participants have raised concerns about whether a sentence in the preamble of the final rule could be read as changing existing interpretations related to accepting or receiving deposits. The sentence is italicized below:¹

The FDIC recognizes that the statute only limits the amount of reciprocal deposits an institution may “receive” in order to be considered an agent institution. *Thus, an institution that is less than well capitalized or not well rated will still qualify as an agent institution if it holds a level of reciprocal deposits above the special cap, as long as (1) such deposits were received before the institution became less than well capitalized or not well rated, (2) such deposits are time deposits,²⁸ and (3) the institution satisfies all other qualifications necessary to be an agent institution.* For example, an institution that is well capitalized but no longer well rated could continue to be an agent institution if it holds reciprocal time deposits that it received prior to its rating downgrade until those time deposits mature or roll off, but would no longer be an agent institution if it renewed or rolled over such deposits and doing so caused the total amount of reciprocal deposits to exceed the special cap. In this case, once the institution receives reciprocal deposits in excess of its special cap, it is no longer an agent institution. If an institution is not an agent institution, all of its reciprocal deposits should be reported as brokered deposits.

²⁸ Transactional reciprocal deposits are viewed as being received daily.

The FDIC does not intend this preamble language to change existing interpretations related to accepting or receiving deposits. Therefore, in an effort to avoid confusion, the FDIC is deleting the sentence in question along with its corresponding footnote and, amending the sentence that immediately follows. The revised paragraph reads as follows:

¹ 84 FR 1346, 1349 (February 4, 2019).

The FDIC recognizes that the statute only limits the amount of reciprocal deposits an institution may “receive” in order to be considered an agent institution. To take a simple example, an institution that is well capitalized but no longer well rated could continue to be an agent institution if it holds reciprocal certificate of deposits that it received prior to its rating downgrade until those certificate of deposits mature or roll off, but would no longer be an agent institution if it renewed or rolled over such deposits and doing so caused the total amount of reciprocal deposits to exceed the special cap. In this case, once the institution receives reciprocal deposits in excess of its special cap, it is no longer an agent institution. If an institution is not an agent institution, all of its reciprocal deposits should be reported as brokered deposits.

As discussed above, these changes to the preamble text are technical, and do not change the rule text. Accordingly, the FDIC finds that notice and comment procedures are unnecessary. Further, because the changes are technical, delaying the effective date would serve no purpose. Therefore, these changes will be effective upon publication.

For convenient reference, the FDIC is posting the revised preamble and final rule in their entirety on its website.

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Dated at Washington, DC, on March 8, 2019.

By Order of the Board of Directors.

Federal Deposit Insurance Corporation.

Valerie Best,

Assistant Executive Secretary.

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